

**\*2.12 TRANSFER OF CONTINGENCY FUNDS TO WASHINGTON BOULEVARD AND PASEO PADRE PARKWAY GRADE SEPARATION PROJECT**  
**Approve an Amendment to the “Public Improvements Grant Agreement” between the City and the Redevelopment Agency.**

**Contact Person:**

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**Note:** Companion item on Redevelopment Agency agenda.

**Executive Summary:** The request to the Redevelopment Agency Board is to transfer \$6,000,000 of appropriations from the Fremont Redevelopment Agency’s (Agency) account for Contingencies for Interchanges and Grade Separation to PWC 8156 (Washington Blvd. and Paseo Padre Grade Separation Project) in order to contribute to increased costs for right of way acquisition and relocation expenses for the Washington Boulevard grade separation. Staff recommends that the City Council adopt a resolution authorizing the City Manager to amend the “Public Improvements Grant Agreement between the City and the Redevelopment Agency for Funding Various Public Improvement Projects” and approve in concept that the City Council would quit claim deed to the Redevelopment Agency any excess land acquired for right of way, subject to all necessary regulations and environmental review.

**BACKGROUND:** The proposed Washington Boulevard/Paseo Padre Parkway Grade Separation project at the Union Pacific Railroad (UPRR) tracks consists of three main elements: 1) an overpass at Washington Boulevard; 2) an underpass at Paseo Padre Parkway; and 3) relocation and consolidation of approximately two miles of railroad tracks. The grade separation project is to eliminate six at grade railroad crossings which will improve safety and alleviate congestion at railroad crossings. A significant secondary benefit of the grade separation project is that it will reduce costs for the BART to Warm Springs Extension. The Washington Boulevard grade separation and about two-thirds of the railroad relocation are located in the redevelopment project area. Agency funds allocated to this project will be used only for these elements of the total grade separation project. No redevelopment funds will be used for the Paseo Padre Parkway grade separation.

**Budget for Washington Boulevard and Paseo Padre Parkway Grade Separation Project:** Following is a summary of the original budget and current estimate for the Washington Boulevard and Paseo Padre Parkway Grade Separation projects:

	<i><b>1997 Original Budget</b></i>	<i><b>12/10/02 Estimate</b></i>	<i><b>Current Estimate</b></i>
Right of Way	\$ 8,498,000	\$15,900,000	\$23,500,000
Utility	\$ 375,000	\$ 730,000	\$ 750,000
Construction (roadway, structure and railroad)	\$22,720,000	\$35,724,770	\$38,007,000
Design, Administration, Construction Management & Inspection	\$ 4,439,000	\$ 7,145,230	\$10,510,000
<b>Total</b>	<b>\$36,032,000</b>	<b>\$59,500,000</b>	<b>\$72,767,000</b>

In January 2001, the City Council authorized City staff to proceed with the final design of an overpass at Washington Boulevard and an underpass at Paseo Padre Parkway. At that time, it was anticipated there would be a project shortfall of approximately \$28.5 million based primarily on the rapid escalation of construction and right of way costs in the Bay Area. The original project estimate made in 1997 (prepared by a different design consultant) included contingencies but could not anticipate the rapid escalation of construction and right of way costs in the Bay Area. Those two factors account for the primary difference in the original budgeted funds versus the December 2002 estimate. Based on the most current estimate, approximately \$6,000,000 additional funds are needed for the right of way portion of the project at this time. In addition, approximately \$1.6 million in RDA funds that were to be applied to construction in the 12/10/02 estimate will now be applied to right-of-way. The construction shortfall will be considered at a future date.

Escalation of cost estimates for planned right-of-way acquisition continues to be a major factor in the increase in the project estimate as appraisals are completed. Additional factors contributing to the rising project costs for right of way include identification of three new full takes required for the project, rent-to-hold agreements for two occupied sites, an increase in consultant fees, an increase in relocation benefits for low income tenants (last resort housing), additional temporary construction easements needed as the project design has been refined and access rights impacts not previously identified. The right of way estimate includes a 10% contingency for any other unforeseen issues that may arise as the project proceeds.

Construction cost estimates have increased significantly since the project was originally budgeted. The current Paseo Padre Parkway estimate is based on an underpass that is estimated to be \$1.5 million more expensive than the overpass in the original estimate. The City Council directed staff to proceed with an underpass design because of community concerns regarding aesthetics, privacy, and noise issues related to an overpass at this location. An underpass requires a pump station because of both the high groundwater and drainage for surface water. Costs for the underpass have also increased because geotechnical engineering analysis of the Paseo Padre Parkway soils have indicated that the excavated soil may not be suitable for use on the Washington Boulevard embankment fills. Previously, the soils were thought to be usable. The project must now dispose of the Paseo Padre underpass excavation material and purchase higher quality soil for the Washington Boulevard overpass fills. Another example of elements contributing to the escalated costs are the number of phases, including temporary detour construction that is required to construct Washington Boulevard while maintaining roadway capacity during construction and maintaining sufficient space for the contractor to work. Finally, the estimate for

design and administration costs (design, right-of-way, legal, construction management, inspection, surveys and testing) was inadequate for the complexity of this project.

The construction estimate is continuing to be refined as the project design nears completion. The current estimate is based on 60% complete plans and includes a 15% contingency. The 90% plans will tentatively be completed in June with a revised estimate. The contingency for the 90% plans will be reduced to 10%.

The design is still also undergoing value engineering to identify areas of potential cost savings and in addition, current market conditions are resulting in lower than anticipated bids. The City is working in partnership with BART to realize any cost savings that can be obtained, including BART's proposed acquisition of two properties necessary for both the Grade Separation and the BART Warm Springs Extension. It is premature to factor in these potential cost savings in the estimate at this time. The construction estimate will continue to be refined with the goal of bringing project costs within the range of previously budgeted funds.

The City Council should be aware that there continues to be the potential for increased costs to this project, specifically in the area of utility relocations. The City Council will continue to be kept informed as the project progresses and costs are refined. A City Council Study Session is tentatively scheduled for September to review the project design, costs and funding.

**Funding Sources for Washington Boulevard and Paseo Padre Parkway Grade Separation Project:**  
Following is a summary of the original and current funding sources for the grade separation project:

	<i><b>Original 1997 Funding</b></i>	<i><b>12/10/02 Funding</b></i>	<i><b>Current Funding (w/Agency contribution)</b></i>
Gas Tax	\$ 185,000	\$ 185,000	\$ 185,000
Traffic Impact Fees	\$ 3,430,000	\$ 6,630,000	\$ 6,630,000
UPRR*	\$ 3,617,000	\$ 3,617,000	\$ 3,617,000
State (STIP)**	\$28,173,000	\$34,928,000	\$ 8,441,000
Mission-- Measure B**	0	0	\$15,000,000
Mission—RDA**	0	0	\$11,487,000
ACCMA	0	\$ 745,000	\$ 745,000
Redevelopment Agency	\$ 2,777,000	\$ 2,777,000	\$ 2,777,000
Redevelopment Agency FY 2003-04 Program Funds	0	\$10,618,000	\$10,618,000
Redevelopment Agency	0	0	\$ 6,000,000
<b>Total</b>	<b>\$38,182,000</b>	<b>\$59,500,000</b>	<b>\$65,500,000</b>

\* to be negotiated

\*\*Reflects funding swap described below

BART will be participating in this project by purchasing portions of right-of-way required for both the BART Warm Springs Extension and the grade separation project not reflected in the Funding source chart above.

**Lack of Alternate Funding Sources for Increased Costs:** The State of California has already committed approximately \$35 million towards this project and there are no additional State funds available. Federal funding, even if it were available, is not an option because the federal environmental processes that would be necessary would directly conflict with the City's ability to meet the timely use of funds requirement of the \$35 million of State Transportation Improvement Program (STIP) funding previously secured for this project. Other City sources of funding (such as gas tax or traffic impact fees) are not available in the magnitude needed to offset the estimated project shortfall. At this time there is no feasible source of funds other than redevelopment funds that can offset the cost of this project. However, staff is scheduling meetings with ACTA and CMA to explore other possible funding options to help meet this rather substantial gap in the funding for the project.

**Redevelopment Agency Funding:** The current request to transfer \$6,000,000 of Redevelopment Agency funds to the project is based on these increased costs and the lack of alternate financing sources. The Agency's current year and past year Project Appropriations Plans have allocated Agency funds to a Contingency Account for Interchanges and Grade Separation account, the "Contingency Account", (951RDA1024). This Contingency Account was established to ensure that there were sufficient contingencies to support unanticipated costs associated with the I-880 interchange projects (a principal Agency commitment related to the Industrial Redevelopment Project Area) and the Washington Boulevard Grade Separation project. Over the course of three years (FY 2001-02 – FY 2003-04), \$30 million was allocated for this purpose. Of the \$30 million, \$20 million was appropriated through FY 2002-03. Another \$10 million remained in Fund Balance to be recommended for appropriation in FY 2003-04. On July 2, 2002, the Agency Board approved a transfer of \$18 million from the contingency account to the I-880/Mission Boulevard/Route 262/Warren Avenue project, (8074PWC) to support an increase in the City's commitment to completion of the Mission Boulevard interchange project (anticipated to begin construction in 2004).

**Growing Redevelopment Agency Investment in Project:** On December 10, 2002, the Agency Board approved a transfer of the remaining \$2,000,000 in the FY 2002-03 Contingency Account and an appropriation of \$8,618,000 of Fund Balance that was to be used for the FY 2003-04 appropriation to the Contingency Account to support \$10 million in unanticipated grade separation right of way costs identified at that time. Also on December 10, 2002 the Agency Board replenished the Contingency Account in the amount of \$10 million from other Agency appropriations.

The funding chart above reflects a proposed funding swap that was conceptually approved by the City Council at its meeting on April 22, 2003 and will be included in the Agency's proposed FY2003-04 Project Appropriations Plan. In the swap, \$26.5 million of the \$34.9 million in State Transportation Improvement Program (STIP) funds allocated to construction of the grade separation would be replaced by \$15 million of Measure B funds and \$11.5 million of Redevelopment Agency funds now allocated to the construction of I880/Mission Boulevard interchange. The swap does not require additional Agency Appropriations to the projects.

The current request would transfer \$6 million of the replenished appropriation of \$10 million in the Contingency Account to the Washington Boulevard and Paseo Padre Parkway Grade Separation project, (8156PWC). With approval of the current request, Agency appropriation to the project will be \$30,882,000, including \$11,487,000 from the swap.

**Remaining Contingency for Interchanges and Grade Separations / Impact on Historic District**

**Projects:** If the Agency Board approves the proposed transfer, the Agency will have \$5.1 million remaining in its Contingency Account. At its meeting on January 7, 2003 the City Council established an order of priority for protection of Agency funds as 1) debt service 2) regional transportation projects, 3) affordable housing and 4) historic district projects. The January 28, 2003 Agency Board item considered these priorities and the suspension of certain Agency projects in light of State budget action that could shift resources away from the Redevelopment Agency. As discussed at the January 28, 2003 meeting, the Governor's proposed FY 2003-04 Budget proposes to significantly shift future redevelopment agency funds to the State of California during the upcoming 15 years. The ultimate impact of the State FY 2003-04 budget is unknown at this time. Until the Washington Boulevard grade separation project and the I-880/Mission Boulevard/Warren Avenue interchange project have been bid and ultimately constructed the Agency's ultimate investment level in these projects will be uncertain. The first phase, I880/Mission Boulevard/Warren Avenue, is scheduled to bid August/September of 2003. The Washington Boulevard/Paseo Padre Parkway Grade Separation is scheduled to bid October of 2003, although that schedule may slip due to approvals necessary for the project (UPRR and the Corps of Engineering).

The state's budget solution and ultimate cost of these two key infrastructure projects will significantly influence the resources available for non-housing projects during the next five years. As discussed at the January 28, 2003 meeting, and as will be further discussed as the Agency considers its Five Year Implementation Plan (currently scheduled for the Agency meeting on June 3, 2003), the current fiscal environment has caused the Agency to suspend work on most historic district projects.

**Timing:** It is critical to the current design of the BART Warm Springs Extension that the grade separation is built on time. BART does not have the funding to assume responsibility for this project. The City's initial planning for this project began as early as 1964 with the adoption of a Precise Plan for Paseo Padre Parkway that included right-of-way widths sufficient for a grade separation. Since 1992, the City Council has taken several actions to support the grade separation project. Included within those actions was execution of a Master Agreement and Program Supplement with the State for the STIP funds and committing the City to comply with the terms of that funding. The project is currently scheduled to be bid in late Fall 2003, with construction to start in early 2004. Negotiations for right of way acquisition and relocation are underway in order to meet the bid date.

**CEQA Findings:** This project is exempt from the California Environmental Quality Act under Section 21080.13 of the Public Resources Code, which exempts railroad grade separation projects.

**Redevelopment Law Findings:** California Redevelopment Law (Health and Safety Code 33445) requires the City Council and Redevelopment Agency to adopt certain findings in order for the Agency to pay for public improvements such as the grade separation. No additional legal findings regarding the Agency contributions to the cost of the grade separation are required to be made at this time because the following findings were previously made by the Council and Agency for the grade separation and are still applicable: 1) the improvements benefit the Redevelopment Project Area; 2) there is no other

reasonable means of financing the improvements; and 3) the improvements will assist in the elimination of blight and are consistent with the Implementation Plan. As previously found by the City Council and the Agency, Agency funding assistance is needed to fill a gap between total grade separation costs and all other available funding sources. The proposed \$6 million increase in Agency assistance is necessary to pay for unanticipated right of way acquisition and relocation costs.

**ENCLOSURE:** None.

**RECOMMENDATION:** Adopt a resolution authorizing the City Manager to amend the “Public Improvements Agreement between the City and the Redevelopment Agency for Various Public Improvement Projects.”

